

Thetis Island Local Trust Committee Regular Meeting Addendum

Date: November 29, 2016
Time: 9:30 am
Location: Thetis Island Community Centre (Forbes Hall)
 North Cove Road, Thetis Island, BC

		Pages
9.	<i>CORRESPONDENCE</i> <i>(Correspondence received concerning current applications or projects is posted to the LTC webpage)</i>	
9.1	<i>Letter dated November 2, 2016 from Olaf and Lynda Knezevic</i>	2 - 2
10.	APPLICATIONS AND REFERRALS 10:15 AM - 11:00 AM	
10.1	<i>TH-RZ-2015.1 (Penelakut Seafoods Ltd.)</i>	
10.1.1	<i><u>Staff Report</u></i>	3 - 17
10.1.2	<i><u>Bylaw No. 96</u></i> THAT the Thetis Island Local Trust Committee Bylaw No. 96, cited as "Thetis Island Official Community Plan, 2011, Amendment No. 1, 2015", be adopted.	
10.2	<i>TH-RZ-2015.2 (Hardy Granite Quarries Ltd.)</i>	
10.2.1	<i><u>Staff Report</u></i>	18 - 23
12.	REPORTS 11:15 AM - 11:40 AM	
12.10	<i>Trustee and Local Expense Reports dated September and October, 2016</i>	24 - 25

To the Thetis Island Local Trust Committee

November 2, 2016



Request for amendment of Bylaw No.94

I purchased my property on Ruxton Island more than 35 years ago when safe access to the Island was available. That was before the Islands Trust imposed "Ruxton Island Zoning Bylaw 13. ".

I provided input when Land Use Bylaw for Thetis Associated Islands No. 94 2014 was in the review process, during the public consultation stage and at public hearing. I advised the prohibition of docks and wharves was unreasonable on Ruxton, an unserviced Island that depends on boat access. Such prohibition denies some Island property owner safe access. This prohibition for safer access discriminates against the elderly, physically challenged and or weaker members in our community.

At one public meeting on Ruxton, in response to concerns of the difficulties the lack of safe access poses for some of us, one of your trustees responded to the effect that at some point you need to accept that you may have to leave and move on. OK that is what the trustee believes. That does not make it right nor less disrespectful or hurtful. It told me old people matter less than the Islands Trust vision for the Island. In spite of my objection and that of at least one member on the APC, the prohibition of any wharves and docks on Ruxton, a boat access only Island without ferry service, continued in the new bylaws.

Ruxton apart from being subdivided into many small lots is no different than other Islands in the area. The neighbouring Islands of Pylades, Tree and DeCourcy all have docks to support safe access. The docks enhance the islands. The Thetis Trust committee is even considering removal of a marine conservation zone to permit the construction of an industrial wharf or dock to accommodate a mine on neighbouring Valdez Island while on Ruxton almost right next door, you prohibit safe access utilizing docks or wharves. What environment are you protecting? Not mine. That is for sure.

I am finding it increasingly difficult to jump from a bouncing boat to the sometimes rather slippery and rocky shore. I have recently fallen into the water and hurt myself when trying to get from the boat to the shore. My wife has recently had a hip replacement. Her surgeon has provided her lifelong cautions that without safer access as can be provided by a dock or wharf virtually ban her from our property on Ruxton. The Islands Trust has legislative responsibility for ensuring a minimum level of safety within its jurisdiction. As such I feel it is negligent in that duty when it denies us safer access by prohibiting docks and wharves on a water access only Island. We feel the access restriction particularly when applied only to Ruxton Island is discriminatory. This restriction contravenes federal, provincial and municipal policy to provide access for all in society.

My wife and I request that without delay, bylaw No. 94 2014 be amended to permit the same access as permitted for the other islands covered by this bylaw. As written, the bylaw is discriminatory in that it denies the vulnerable, seniors, frail, physically challenged and those who are not wealthy, healthy or fit safe access to their waterfront properties.

Olaf and Lynda Knezevic

File No.: TH-RZ-2015.1 (Penelakut Seafoods Ltd.)

DATE OF MEETING: November 29, 2016

TO: Thetis Island Local Trust Committee

FROM: Marnie Eggen, Planner 2
Northern Office

SUBJECT: Application to Rezone Lands to Permit Mariculture

Applicant: Penelakut Seafoods Ltd.

Location: 'The Cut' (waters adjacent to southern Thetis Island shoreline)

RECOMMENDATION

1. THAT the Thetis Island Local Trust Committee Bylaw No. 96, cited as "Thetis Island Official Community Plan, 2011, Amendment No. 1, 2015", be adopted.
2. That the Thetis Island Local Trust Committee Bylaw No. 97 cited as "Thetis Island Land Use Bylaw, 2011, Amendment No. 1, 2015", be read a third time.
3. That the Thetis Island Local Trust Committee Bylaw No. 97 cited as "Thetis Island Land Use Bylaw, 2011, Amendment No. 1, 2015", be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee.

REPORT SUMMARY

The purpose of this report is the following:

- Request that the Local Trust Committee (LTC) consider adoption of Bylaw No. 96;
- Report back to LTC regarding supplemental information requests to Department of Fisheries and Oceans, Ministry of Forests, Lands and Natural Resource Operations, Transport Canada and Penelakut Seafoods Ltd.; and
- Request that the LTC consider third reading of Bylaw No. 97.

BACKGROUND

On May 9, 2016, the Thetis LTC held a Community Information Meeting and Public Hearing. At the May 24, 2016 LTC meeting, staff summarized the public submissions that had been received until the close of the Public Hearing on May 9th.

The LTC passed the following resolutions at the May 24, 2016 LTC meeting and staff comments are provided where follow up was undertaken:

TH-2016-031

It was MOVED and SECONDED

that the Local Trust Committee request that the Chair write a letter to the Province being notified in the future of changes to the License of Occupation of the Penelakut Seafood Mariculture Licence.

CARRIED

The letter was sent to the Ministry of Forests, Lands and Natural Resources Operations and ministry staff confirmed that the letter would be added to the aquaculture licence of occupation file.

TH-2016-032

It was MOVED and SECONDED

that the Thetis Island Local Trust Committee Bylaw No. 96 cited as "Thetis Island Official Community Plan, 2011, Amendment No. 1, 2015", be read a second time.

CARRIED

TH-2016-033

It was MOVED and SECONDED

that the Thetis Island Local Trust Committee request the Chair to write a letter to Penelakut Seafoods Ltd. asking for a letter of support for dredging of the Cut in the future, if necessary, regardless of the mariculture uses.

CARRIED

Staff provided a verbal report at the July 26 2016 LTC meeting on the response from Penelakut Seafoods. In summary, the Chief Administrative Officer for Penelakut Tribe (on behalf of Penelakut Seafoods Ltd.) confirmed that the 'cut' is currently used by the Penelakut community and Penelakut Seafoods Ltd. The Board cannot commit to providing a letter of support for potential future dredging of the Cut as it cannot fetter the discretion of the Board in the absence of details of any 'proposed' dredging. Such a decision would involve consultation with the Penelakut community and site specific details to be considered by all interested agencies.

TH-2016-034

It was MOVED and SECONDED

that the Thetis Island Local Trust Committee Bylaw No. 96 cited as "Thetis Island Official Community Plan, 2011, Amendment No. 1, 2015", be read a third time.

CARRIED

TH-2016-035

It was MOVED and SECONDED

that the Thetis Island Local Trust Committee Bylaw No. 96, cited as "Thetis Island Official Community Plan, 2011, Amendment No. 1, 2015", be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee.

CARRIED

TH-2016-036

It was MOVED and SECONDED

that the Thetis Island Local Trust Committee forward Bylaw No. 96, cited as "Thetis Island Official Community Plan, 2011, Amendment No. 1, 2015", to the Minister of Community, Sport and Cultural Development for approval.

CARRIED

Bylaw No. 96 was approved by the Minister on November 17, 2016 and can now be considered by the LTC for adoption.

TH-2016-037

It was MOVED and SECONDED

that the Thetis Island Local Trust Committee Bylaw No. 97 cited as "Thetis Island Land Use Bylaw, 2011, Amendment 1, 2015", be read a second time.

CARRIED

At the public hearing, some concern was raised with regard to the impact of the licence of occupation for aquaculture over the navigational channel ‘the cut’ and that public access would be impeded, and that any dredging of the channel that may be needed in the future may also be impeded. As a result of the concern, on June 2, 2016, the following Resolutions without Meeting (RWM) were passed:

“THAT the Thetis Island Local Trust Committee ask staff to communicate with Transport Canada and request written confirmation that despite the issuance of a License of Occupation for the purposes of Mariculture (Clam and Oyster) in the Navigation Channel between Thetis and Penelakut Islands, the *Navigation Protection Act* will continue to protect the right of the public to use this channel for the purposes of navigation.”

“THAT the Thetis Island Local Trust Committee ask staff to communicate with the Department of Fisheries and Oceans and the Ministry of Forest Lands and Natural Resources and request written confirmation that in the future an application for dredging of the Navigation Channel between Thetis and Penelakut Islands, if applied for by local government or another agency with community support, would "not be approved" solely on the basis that the area has a License of Occupation for the purposes of Mariculture.”

Responses from the agencies were received and are discussed in the Analysis section below.

ANALYSIS

Responses to LTC’s requests for Information from Other Government Agencies

Staff have received responses from the three government agencies which are summarized below (see attachments for responses). These responses are not considered ‘new’ information in the consideration of Proposed Bylaw No. 97 post public hearing.

Request to Transport Canada

Transport Canada responded that the *Navigation Protection Act* authorizes and regulates interferences with the public right in waterways, and that it is unlikely that Transport Canada would authorize a work (a human made structure, fill, or excavation) that would obstruct the use of ‘the cut.’ Also, any proposed dredging would require authorization unless it was considered a “minor works.”

Request to Ministry of Forests, Lands and Natural Resource Operations

The Ministry stipulates that a licence of occupation does not allow the tenure holder to restrict public access, and that the *Land Act* would not prevent dredging, particularly if there is a navigation concern.

Request to Department of Fisheries and Oceans (DFO)

The DFO aquaculture group stipulates that there is nothing in an aquaculture licence that would prevent dredging activities from occurring provided DFO Fisheries Protection authorizes the activity. Dredging activities in a marine area would require DFO Fisheries Protection authorization regardless of any aquaculture licence, licence of occupation, or zoning in place.

In respect of the concerns with regard to public access through ‘the cut’, it is the position of planning staff that all provincial and federal agencies have adequately confirmed that the licence of occupation does not allow the tenure holder to restrict public access. Staff highlight that the current licence of occupation only allows for oyster and clam mariculture, and no additional uses. Transport Canada indicates they would not likely authorize any works that would obstruct the use of ‘the cut’. The Province would not restrict dredging. Any proposed dredging would require authorization by Transport Canada unless it was a “minor works” and would require DFO authorization regardless of any existing tenures or zoning.

Rationale for Recommendation:

Staff recommend that Bylaw No. 96 be adopted, and that Bylaw No. 97 be given third reading and forwarded to the Executive Committee for approval. The recommendation is supported by the following:

- The majority of concerns raised by the public are with regard to the provincial licence of occupation and federal authority to regulate navigation, not with regard to rezoning the marine area for the purposes of mariculture. It is the opinion of staff that the LTC has responded to the concerns raised and obtained clarity from the relevant provincial and federal agencies on the issue of navigation through 'the cut'.
- Navigation and dredging in the marine area are of a federal responsibility and are to be addressed under that authority regardless of the zoning in place.
- The information provided in the responses post public hearing is not considered new information therefore third reading can be considered by the LTC.

ALTERNATIVES

1. Deny the application

The LTC may deny the application. If this alternative is selected, the LTC should state the reasons for denial, which confirm the LTC has given thorough and objective consideration to this proposal.

Resolution:

That the Thetis Island Local Trust Committee proceed no further with Proposed Bylaw No. 97 for the following reasons [insert reasons].

Submitted By:	Marnie Eggen, MCIP, RPP Planner 2	November 21, 2016
Concurrence:	Ann Kjerulf, MCIP, RPP Regional Planning Manager	November 23, 2016

ATTACHMENTS

1. Response from Transport Canada
2. Response from Ministry of Forests, Lands and Natural Resource Operations
3. Response from Department of Fisheries and Oceans
4. Bylaw No. 96 – for adoption
5. Bylaw No. 97 – for third reading



Navigation Protection Program
Programme de protection de la navigation
Suite 600, 800 Burrard Street
Vancouver, B.C. V6Z 2J8

Your File Votre référence

Our File Notre référence
NPA 2016-500008

October 18, 2016

Marnie Eggen
Planner, Islands Trust, Northern Office
700 North Road,
Gabriola Island, BC, V0R 1X3

Dear Ms. Eggen;

Re.: Questions with respect to “The Cut” and the Navigation Protection Program.

Thank you for your inquiry in your correspondence, dated Monday, 19 September 2016. We understand you are requesting confirmation of your understanding of Transport Canada’s role in protecting the public right of navigation where a Licence of Occupation has been issued.

First of all, we should clarify that the public right to navigation is a right established and defined through common law. The *Navigation Protection Act* (NPA) authorizes and regulates interferences with this public right in waterways that are listed in the schedule to the Act.

It is prohibited to construct, place, alter, repair, rebuild, remove or decommission a work within any scheduled waterway, except in accordance with the NPA. A “work” includes any structure, device or thing, whether temporary or permanent, that is made by humans. It also includes the dumping of fill and the excavation of materials from the bed of any navigable water. The Act only comes in to play when a work is proposed for installation, or has been placed contrary to the Act.

A Licence of Occupation (Licence) falls within the scope of property law, which is primarily within the jurisdiction of the Province of BC. A Licence, in itself, is not a work. Therefore, Transport Canada has no mandate with respect to the issuance or refusal of a Licence.

With specific reference to “The Cut”, this office has not received a request for authorization to place man-made structures there. Should a proponent wish to install physical works below the highest high water mark, they would require authorization pursuant to the NPA. If authorized, the works would be subject to the *Navigable Waters Works Regulations* and any other terms and conditions that are imposed to mitigate potential impacts to navigation.

It is unlikely that Transport Canada would authorize a work that would obstruct use of The Cut. Natural sedimentation is not a work as defined by the NPA, and if the owner of the bed of the waterway allows it, there is no role for TC.



Any proposed dredging would require review and authorization by TC, unless it meets the definition set out in the Minor Works Order, pursuant to section 10 of the NPA. If authorized, dredging may also be subject to terms and conditions to mitigate potential impacts to navigation.

I hope this has addressed your questions with respect to Transport Canada's role. Please contact us again if you would like any additional information.

Sincerely,

Roberta Dight
Navigation Protection Officer
Navigation Protection Program
Transport Canada

Encl: Minor Works Order

CC:

Judy Boone, Ministry of Forests, Lands, and Natural Resource Operations, Judy.Boone@gov.bc.ca
Nichole Prichard, Ministry of Forests, Lands, and Natural Resource Operations, Nichole.Prichard@gov.bc.ca
Lesley Fettes, Ministry of Forests, Lands, and Natural Resource Operations, Lesley.Fettes@gov.bc.ca
Tricia Spearing, Fisheries & Oceans Canada, Shelley.Meadows@dfo-mpo-gc.ca
Marnie Eggen, Islands Trust, meggen@islandstrust.bc.ca

ppouliotte@ecrc.ca (email), or file a notice of objection that contains the reasons for the objection with the Manager, Environmental Response Systems, Marine Safety, Transport Canada, Place de Ville, Tower C, 10th Floor, 330 Sparks Street, Ottawa, Ontario K1A 0N8, 613-990-9414 (telephone), 613-993-8196 (fax), andre.laflamme@tc.gc.ca (email). All such representations must cite the *Canada Gazette*, Part I, the name of the response organization submitting the list of proposed fees, and the date of publication of the notice of proposed fees.

[16-1-o]

DEPARTMENT OF TRANSPORT

NAVIGABLE WATERS PROTECTION ACT

Order Amending the Minor Works and Waters (Navigable Waters Protection Act) Order

The Minister of Transport, pursuant to subsection 13(1) ([see footnote q](#)) of the *Navigable Waters Protection Act* ([see footnote h](#)), makes the annexed *Order Amending the Minor Works and Waters (Navigable Waters Protection Act) Order*.

Ottawa, March 31, 2014

LISA RAITT
Minister of Transport

ORDER AMENDING THE MINOR WORKS AND WATERS (NAVIGABLE WATERS PROTECTION ACT) ORDER

AMENDMENTS

1. (1) The definitions “berm” and “high-water mark” in section 1 of the *Minor Works and Waters (Navigable Waters Protection Act) Order* ([see footnote 9](#)) are repealed.

(2) The definitions “petit quai” and “plan d’eau navigable cartographié” in section 1 of the French version of the Order are repealed.

(3) The definition “charted navigable waters” in section 1 of the English version of the Order is replaced by the following:

“charted navigable water”
« *eaux navigables cartographiées* »

“charted navigable water” means navigable waters for which navigation charts are produced by the Canadian Hydrographic Service or the National Oceanic and Atmospheric Administration.

(4) The marginal note to the definition “dock” in section 1 of the English version of the Order is amended by replacing “petit quai” with “quai”.

(5) Section 1 of the Order is amended by adding the following in alphabetical order:

“ice breaker”
« *brise-glace* »

“ice breaker” means a vessel that is specially constructed or modified for the purpose of navigating through ice.

“pipeline”
« *pipeline* »

“pipeline” includes a conduit that contains wires or pipes.

(6) Section 1 of the French version of the Order is amended by adding the following in alphabetical order:

« *eaux navigables cartographiées* »
“charted navigable water”

« *eaux navigables cartographiées* » Eaux navigables pour lesquelles des cartes de navigation sont produites par le Service hydrographique du Canada ou la National Oceanic and Atmospheric Administration.

« *quai* »
“dock”

« *quai* » S’entend notamment d’un môle ou d’une jetée.

2. The heading before section 2 and sections 2 to 14 of the Order are replaced by the following:

TERMS AND CONDITIONS

(ii) in any other case, 1 m;

- (b) the works do not alter the level or flow of the navigable water;
- (c) in the case of a charted navigable water, the works are not within 30 m of a navigation channel; and
- (d) the works are not associated with a dam, weir or headpond, including a proposed dam, weir or headpond.

Temporary works

(3) Temporary works that are required for the construction or placement of works of the class established by subsection (2) are established as a class of works for the purposes of subsection 5.1(1) of the Act unless the temporary works are in, on, over, under, through or across a navigation channel.

During construction or placement

- (4) During the construction or placement of works of the class established by subsection (2) or (3), the owner of the works must ensure
- (a) that vessels can navigate safely through or around the work site or, if navigation is interrupted by any activity related to the construction or placement, that suitable means, such as a portage, exist to allow vessels to resume navigation on the other side of the work site; and
 - (b) that no floating pipes are left unattended or unsupervised.

Removal of temporary works

(5) The owner of works of the class established by subsection (3) must ensure that they are completely removed on completion of the construction or placement of the works for which they were required.

Restoration of contours

(6) The owner of works of the class established by subsection (2) must, if the contours of the bed of the navigable water were disturbed by either of the following, ensure that the contours are restored to their natural state on completion of the construction or placement of the works:

- (a) the placement or construction of the works or of works of the class established by subsection (3); or
- (b) the removal of works of the class established by subsection (3).

Re-laying piping

(7) Subject to subsection (8), if the piping of works of the class established by subsection (2) no longer lies on the bed of the navigable water, the owner of the works must, as soon as feasible,

- (a) re-lay the piping so that it lies on the bed; or
- (b) remove the works.

Dangers to navigation

(8) The owner must immediately take the action referred to in subsection (7) if the piping becomes a danger to navigation because it no longer lies on the bed of the navigable water.

DREDGING

Class established

12. (1) Dredging is established as a class of works for the purposes of subsection 5.1(1) of the Act if

- (a) the works are done in order to maintain the width or depth of the navigable water;
- (b) all dredged materials are disposed of
 - (i) above the ordinary high-water mark, or
 - (ii) in water where the disposal is authorized by or under an Act of Parliament;
- (c) the works do not use any suction dredging that involves the use of floating or submerged pipes;
- (d) the works have no cables that cross on, over or through any portion of the navigable water; and
- (e) the works do not include blasting.

Temporary works — class established

(2) Temporary works that are required for the construction or placement of works of the class established by subsection (1) are established as a class of works for the purposes of subsection 5.1(1) of the Act unless the temporary works are in, on, over, under, through or across a navigation channel marked by the federal government, a provincial government or an agency of one of those governments.

Prior notification of Canadian Coast Guard

(3) If works of the class established by subsection (2) are in a charted navigable water, the owner of the works must, at least 48 hours before the construction or placement of the works starts, in writing notify a Canadian Coast Guard Marine Communications and Traffic Services Centre of the day on which construction or placement of the works is expected to start.

During construction or placement

(4) During the construction or placement of works of the class established by subsection (1) or (2), the owner of the works must ensure that vessels can navigate safely through or around the work site or, if navigation is interrupted by any activity related to the construction or placement, that suitable means, such as a portage, exist to allow vessels to resume navigation on the other side of the work site.

During construction or placement of temporary works

(5) During the construction or placement of works of the class established by subsection (2), the owner of the works must ensure that

(a) if the works are on, over or across a navigable water, the works are marked, from dusk to dawn and during periods of restricted visibility, with yellow flashing lights that are

- (i) located on the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,
- (ii) located on each end of the works, if the works are more than 3 m in length but not more than 20 m in length,
- (iii) located on each end of the works and at any other location on the works so that the lights are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or
- (iv) located on each end of the works and at any other location on the works so that the lights are spaced not more than 30 m apart, if the works are more than 30 m in length; and

(b) if the works are in or through a navigable water, the works are marked with cautionary buoys that are lighted from dusk to dawn and during periods of restricted visibility and are

- (i) located at the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,
- (ii) located at each end of the works, if the works are more than 3 m in length but not more than 20 m in length,
- (iii) located at each end of the works and at any other location alongside the works so that the buoys are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or
- (iv) located at each end of the works and at any other location alongside the works so that the buoys are spaced not more than 30 m apart, if the works are more than 30 m in length.

Removal of temporary works

(6) The owner of works of the class established by subsection (2) must ensure that they are completely removed on completion of the construction or placement of the works for which they were required.

Contouring

(7) The owner of works of the class established by subsection (1) must ensure that the bed of the navigable water is, on completion of the construction or placement of the works, contoured to prevent hazards to navigation.

Notification of Canadian Coast Guard on completion

(8) If works of the class established by subsection (1) or (2) are in a charted navigable water, on completion of the construction or placement of the works the owner of the works must, in writing, notify a Canadian Coast Guard Marine Communications and Traffic Services Centre that the works have been completed.

MOORING SYSTEMS

Definitions

13. (1) The following definitions apply in this section.

“length”
« *longueur* »

“length” means, in respect of a vessel, the distance between the fore and aft extremities of the vessel.

“mooring system”
« *système d’amarrage* »

“mooring system” means a system that is used to secure a vessel and that consists of an anchor that is set in or on the bed of a navigable water, a single anchor line, a single buoy and a mooring line to attach to a vessel.

Marnie Eggen

Subject: FW: Penelakut Seafoods Ltd. Mariculture Licence of Occupation, The Cut and future dredging

From: Fettes, Lesley FLNR:EX [<mailto:Lesley.Fettes@gov.bc.ca>]

Sent: Tuesday, October 11, 2016 10:32 AM

To: Marnie Eggen

Cc: Spearing, Tricia; Prichard, Nichole D FLNR:EX; roberta.dight@tc.gc.ca; 'AQSF / AQSF (DFO/MPO)'

Subject: RE: Penelakut Seafoods Ltd. Mariculture Licence of Occupation, The Cut and future dredging

Hi Marnie,

Likewise, my apologies for the delayed response.

A licence of occupation does not allow the tenure holder to restrict public access. From my understanding of the situation and possible future dredging, I don't believe that the *Land Act* tenure would prevent that activity from happening, particularly if there is a navigation concern.

Best Regards,
Lesley

Lesley Fettes
Section Head, Aquaculture
Ministry of Forests, Lands and Natural Resource Operations
phone: (250) 897-7541

Marnie Eggen

Subject: FW: Penelakut Seafoods Ltd. Mariculture Licence of Occupation, The Cut and future dredging

From: AQSF / AQSF (DFO/MPO) [<mailto:ShellfishAquaculture.XPAC@dfo-mpo.gc.ca>]

Sent: Tuesday, October 11, 2016 9:10 AM

To: Marnie Eggen

Cc: Spearing, Tricia; Prichard, Nichole D FLNR:EX (Nichole.Prichard@gov.bc.ca); roberta.dight@tc.gc.ca; AQSF / AQSF (DFO/MPO); Lesley.Fettes@gov.bc.ca

Subject: RE: Penelakut Seafoods Ltd. Mariculture Licence of Occupation, The Cut and future dredging

Hi Marnie,

Firstly, I apologize for the delay in responding. I have confirmed with our manager that this type of application would not be reviewed by the DFO aquaculture group. The DFO aquaculture group reviews potential fisheries impacts caused by aquaculture activities. Dredging for navigation purposes is not an aquaculture-specific activity and is something the Fisheries Protection division of DFO would need to consider. That being said, there is nothing in our aquaculture licence that would prevent this type of activity from occurring, as long as Fisheries Protection authorization has been granted.

<http://www.dfo-mpo.gc.ca/pnw-ppe/fpp-ppp/index-eng.html>

Regional Aquaculture Management Contact

200-401 Burrard Street

Vancouver, BC, V6C 3S4

Tel: (604) 666-7009

Email: DFO.PACAAR-RAAPAC.MPO@dfo-mpo.gc.ca

Best regards,

Michelle Manning

Aquaculture Management Coordinator, Fisheries Management Branch – Pacific Region

Fisheries and Oceans Canada | Government of Canada

Michelle.Manning@dfo-mpo.gc.ca | Tel: 250-754-0409, Fax: 250-754-0391

Coordinatrice - Gestion de l'aquaculture, Direction de la gestion des pêches – Région Pacifique

Pêches et Océans Canada | Gouvernement du Canada

Michelle.Manning@dfo-mpo.gc.ca | Tél : 250-754-0409, Télécopieur 250-754-0391

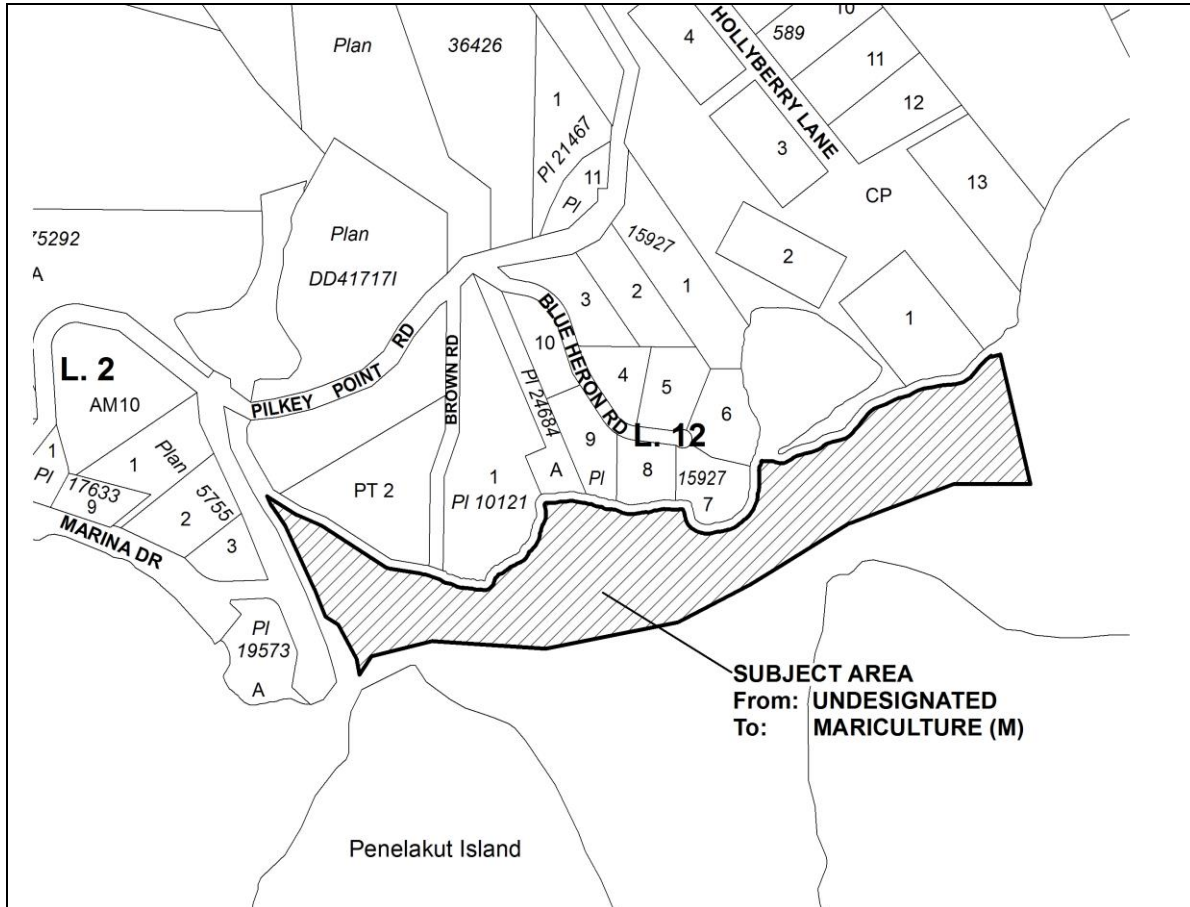
A BYLAW TO AMEND THETIS ISLAND OFFICIAL COMMUNITY PLAN, 2011

2.1 Schedule "C" – Land Use Designations is amended by changing the designation of the unsurveyed Crown foreshore or land covered by water being part of the bed of Clam Bay, Cowichan District from undesignated to Mariculture (M) as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule "C" to Bylaw No. 88 as are required to effect this change.

Secretary

THETIS ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 96

Plan No. 1



PROPOSED

THETIS ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 97

A BYLAW TO AMEND THETIS ISLAND LAND USE BYLAW, 2011

The Thetis Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the Thetis Island Local Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “Thetis Island Land Use Bylaw, 2011, Amendment No. 1, 2015”.

2. Thetis Island Local Trust Committee Bylaw No. 89, cited as “Thetis Island Land Use Bylaw, 2011,” is amended as follows:

2.1 Schedule “C” – Zoning Map, is amended by changing the zoning classification of the unsurveyed Crown foreshore or land covered by water being part of the bed of Clam Bay, Cowichan District from Water 4 (W-4) to Water 5 (W-5), as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule “C” of Bylaw No. 89 as are required to effect this change.

READ A FIRST TIME THIS 24TH DAY OF NOVEMBER , 2015

PUBLIC HEARING HELD THIS 9TH DAY OF MAY , 2016

READ A SECOND TIME THIS 24TH DAY OF MAY , 2016

READ A THIRD TIME THIS _____ DAY OF _____ , 20__

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS

_____ DAY OF _____ , 20__

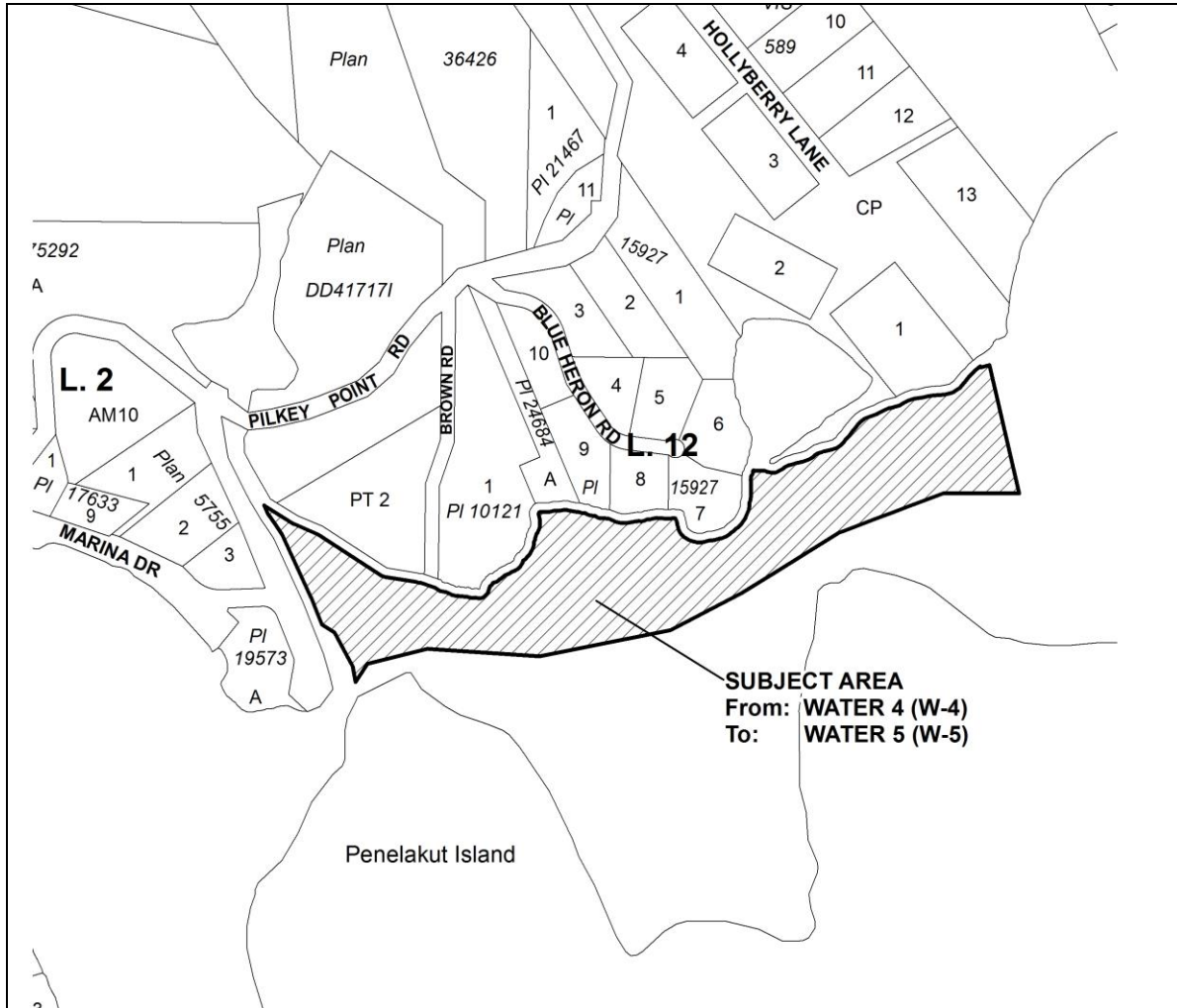
ADOPTED THIS _____ DAY OF _____ , 20__

Chair

Secretary

THETIS ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 97

Plan No. 1





File No.: TH-RZ-2015.2 (Hardy Island Granite Quarries Ltd.)

DATE OF MEETING: November 29, 2016
TO: Thetis Island Local Trust Committee
FROM: Marnie Eggen, Island Planner
SUBJECT: **Application to Rezone a Marine Area to Allow Barge Facilities**
Applicant: Hardy Island Granite Quarries Ltd.
Location: Unsurveyed Crown foreshore and land covered by water being part of the bed of Pylades Channel, adjacent to Lyackson IR3, Valdes Island

RECOMMENDATION

1. **THAT Thetis Island Local Trust Committee Bylaw No. 98 cited as “Valdes Island Rural Land Use Bylaw, 1998, Amendment No.1, 2016” be amended as follows:**

- i. Section 2.1 is deleted in its entirety and replaced with the following:

- 2.1 Schedule “A” is amended by inserting the following new subsection and text, and by making such alterations to Schedule “A” to Bylaw No. 42 as are required to effect this change:

“5.2.13 Marine Barge Facility (W7) Zone

The following uses and no others are permitted in the (W7) Zone:

- Barge loading and unloading
- Aids to marine navigation
- Moorage to buoys associated with use of adjacent upland parcel

2. **THAT the Thetis Island Local Trust Committee Bylaw No. 98 cited as “Valdes Island Rural Land Use Bylaw, 1998, Amendment No. 1, 2016” be read a first time as amended.**

REPORT SUMMARY

The purpose of this staff report is the following:

- Request that LTC consider adding boat moorage as a permitted use in the W7 zone and amend Bylaw No. 98 to include boat moorage;
- Seek direction from the LTC on proceeding with the application; and
- Provide next steps in rezoning process.

Change to the Proposed Rezoning

The applicant has confirmed that they would like to add boat moorage use to the proposed area to be rezoned. This is intended to be used by crew boats in association with the quarry operations and for future use by

Lyackson First Nation in association with accessing IR3 on Valdes Island. The addition of moorage as a permitted use to the newly proposed W7 zone is recommended by staff for the following reasons:

- Boat moorage is a reasonable associated use to the proposed barge facility and to the adjacent upland parcel, IR3; and
- The addition of boat moorage is permitted in the existing W1 zone and is consistent with the other marine zones of Valdes Island.

BACKGROUND

On March 29, 2016 the Thetis LTC passed the most recent resolutions regarding this application:

TH-2016-008

It was MOVED and SECONDED

that the Thetis Island Local Trust Committee Bylaw No. 98 cited as “Valdes Island Rural Land Use Bylaw, 1998, Amendment No.1, 2016” be read a first time.

CARRIED

TH-2016-009

It was MOVED and SECONDED

that the Thetis Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 98 cited as “Valdes Island Rural Land Use Bylaw, 1998, Amendment No. 1, 2016” is not contrary to or at variance with the Islands Trust Policy Statement.

CARRIED

TH-2016-010

It was MOVED and SECONDED

that the Thetis Island Local Trust Committee request staff to refer Bylaw No. 98 cited as “Valdes Island Rural Land Use Bylaw, 1998, Amendment No. 1, 2016” to the following agencies for comment:

- | | |
|---|---|
| • Town of Ladysmith | • School District #68 (Nanaimo-Ladysmith) |
| • Cowichan Valley Regional District | • Transport Canada |
| • Nanaimo Regional District | • Environment Canada |
| • Gabriola Island Local Trust Committee | • Parks Canada |
| • Galiano Island Local Trust Committee | • Semiahmoo First Nation |
| • Salt Spring Island Local Trust Committee | • Stz’uminus First Nation |
| • Ministry of Environment | • Cowichan Tribes |
| • Ministry of Community, Sport and Cultural Development | • Halalt First Nation |
| • Ministry of Forests, Lands and Natural Resources Operations – Ecosystems | • Lake Cowichan First Nation |
| • Ministry of Forests, Lands and Natural Resource Operations – Archaeology Site Inventory | • Lyackson First Nation |
| | • Penelakut Tribe |
| | • Snuneymuxw First Nation |
| | • Hul’qumi’num Treaty Group |
| | • Ruxton Island Ratepayers Association |

CARRIED

Referral responses and submissions from the public were received and summarized in the Staff Memo dated July 18, 2016. Staff will address the responses and submissions in a subsequent staff report.

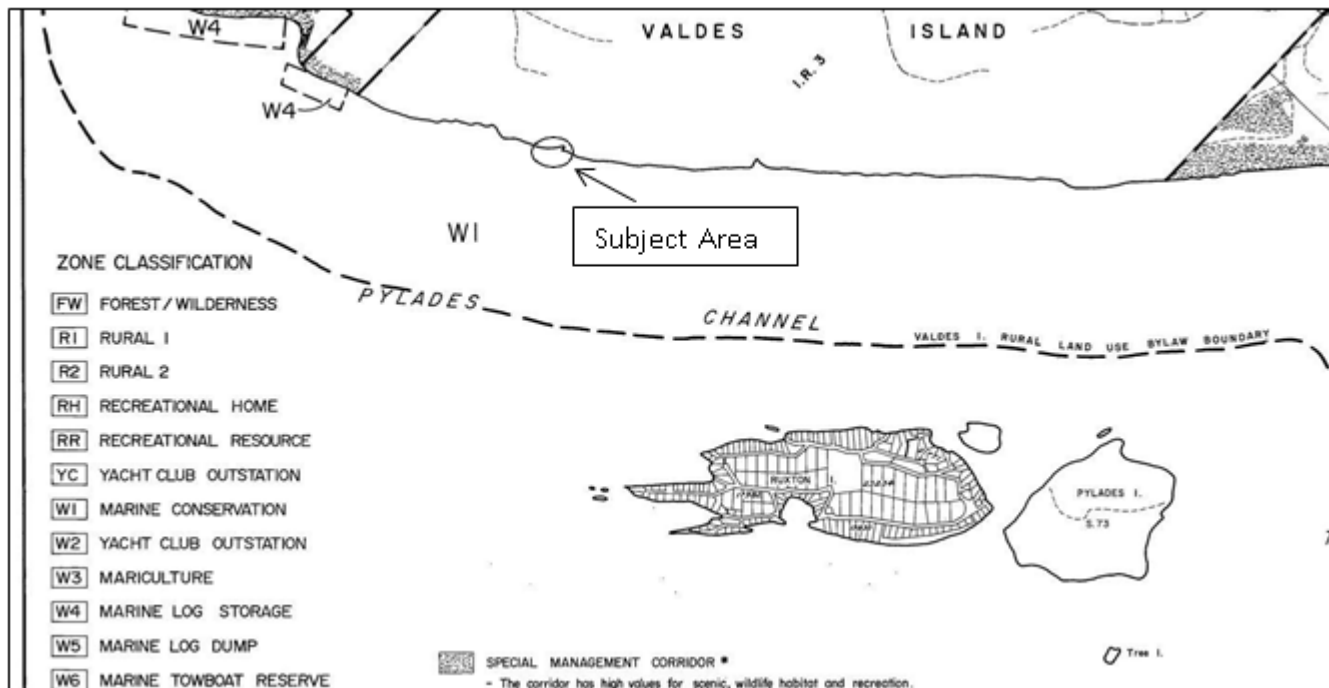
ANALYSIS

Policy/Regulatory:

Rural Land Use Bylaw No. 42 (RLUB), 1998 – Land Use Regulations

As per RLUB Section 5.2.7, the subject area is currently zoned Marine Conservation (W1) (see figure below), and moorage to buoys associated with residential use of upland parcels is a permitted use. The W1 zone covers the majority of the marine area around Valdes Island.

Figure 1: Valdes RLUB Zone Classifications



Issues and Opportunities:

The addition of moorage as a permitted use to the newly proposed W7 zone is not a change from the permitted uses in the existing W1 zone. “Moorage to buoys associated with residential use of upland parcels” is currently permitted in the W1 zone. In fact, all of the existing marine zones for Valdes Island allow moorage, with the exception of the W6 zone, which allows shelter for tow boats. In staff’s opinion, boat moorage is a reasonable associated use to the proposed barge facility and to the future use of IR3 on Valdes Island, and is consistent with the other existing marine zones.

Consultation:

Bylaw No. 98 received first reading March 29, 2016 and First Nations and agency referrals were sent out and responses received. Staff intend to provide a summary of responses and recommend further bylaw changes, if needed, at the next LTC meeting scheduled for February 21, 2017. At this time, staff are of the opinion that re-referral of the bylaws to agencies and First Nations is not necessary, given the boat moorage is a permitted use under the existing zoning.

Rationale for Recommendation:

The addition of moorage as a permitted use to the newly proposed W7 zone is recommended by staff for the following reasons:

- Boat moorage is a reasonable associated use to the proposed barge facility and to the adjacent upland parcel, IR3; and
- Boat moorage is already permitted in the existing W1 zone and is consistent with the other marine zones of Valdes Island.

ALTERNATIVES

1. Deny the application.

The LTC may deny the application. If this alternative is selected, the LTC should state the reasons for denial. The associated resolution could be worded as follows:

That the Thetis Island Local Trust Committee proceed no further with Proposed Bylaw No. 98.

2. Re-Refer Amended Bylaw No. 98 to Agencies and First Nations

The LTC may wish to re-refer the amended bylaw to agencies and First Nations for further comment given the proposed change to include boat moorage as a permitted use in the W7 zone. The associated resolution could be worded as follows:

That Thetis Island Local Trust Committee Bylaw No. 98 cited as "Valdes Island Rural Land Use Bylaw, 1998, Amendment No. 1, 2016" be re-referred to the following agencies and First Nations for comment [list agencies].

NEXT STEPS

Staff intend to report to the LTC at the February 17, 2017 meeting with a summary of referral responses and public input and suggest further amendments to the proposed bylaw if needed.

Submitted By:	Marnie Eggen, RPP, MCIP Island Planner	November 23, 2016
Concurrence:	Ann Kjerulf, RPP, MCIP Regional Planning Manager	November 24, 2016

ATTACHMENTS

1. Bylaw No. 98

PROPOSED

THETIS ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 98

A BYLAW TO AMEND VALDES ISLAND RURAL LAND USE BYLAW, 1998

The Thetis Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the Thetis Island Local Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “Valdes Island Rural Land Use Bylaw, 1998, Amendment No. 1, 2016”.

2. Thetis Island Local Trust Committee Bylaw No. 42, cited as “Valdes Island Rural Land Use Bylaw, 1998,” is amended as follows:

2.1 Schedule “A” is amended by inserting the following new subsection and text, and by making such alterations to Schedule “A” to Bylaw No. 42 as are required to effect this change:

“5.2.13 Marine Barge Facility (W7) Zone

The following uses and no others are permitted in the (W7) Zone:

- Barge loading and unloading
- Aids to marine navigation”

2.2 Schedule “C” is amended as follows:

2.2.1 By adding to the list of zone classifications “(W7) Marine Barge Facility”, and by making such alterations to Schedule “C” to Bylaw No. 42 as are required to effect this change.

2.2.2 By changing the zoning classification of a portion of the unsurveyed crown foreshore and land covered by water being part of the bed of Pylades Channel, adjacent to Lyackson IR3 from Marine Conservation (W1) to Marine Barge Facility (W7), as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule “C” to Bylaw No. 42 as are required to effect this change.

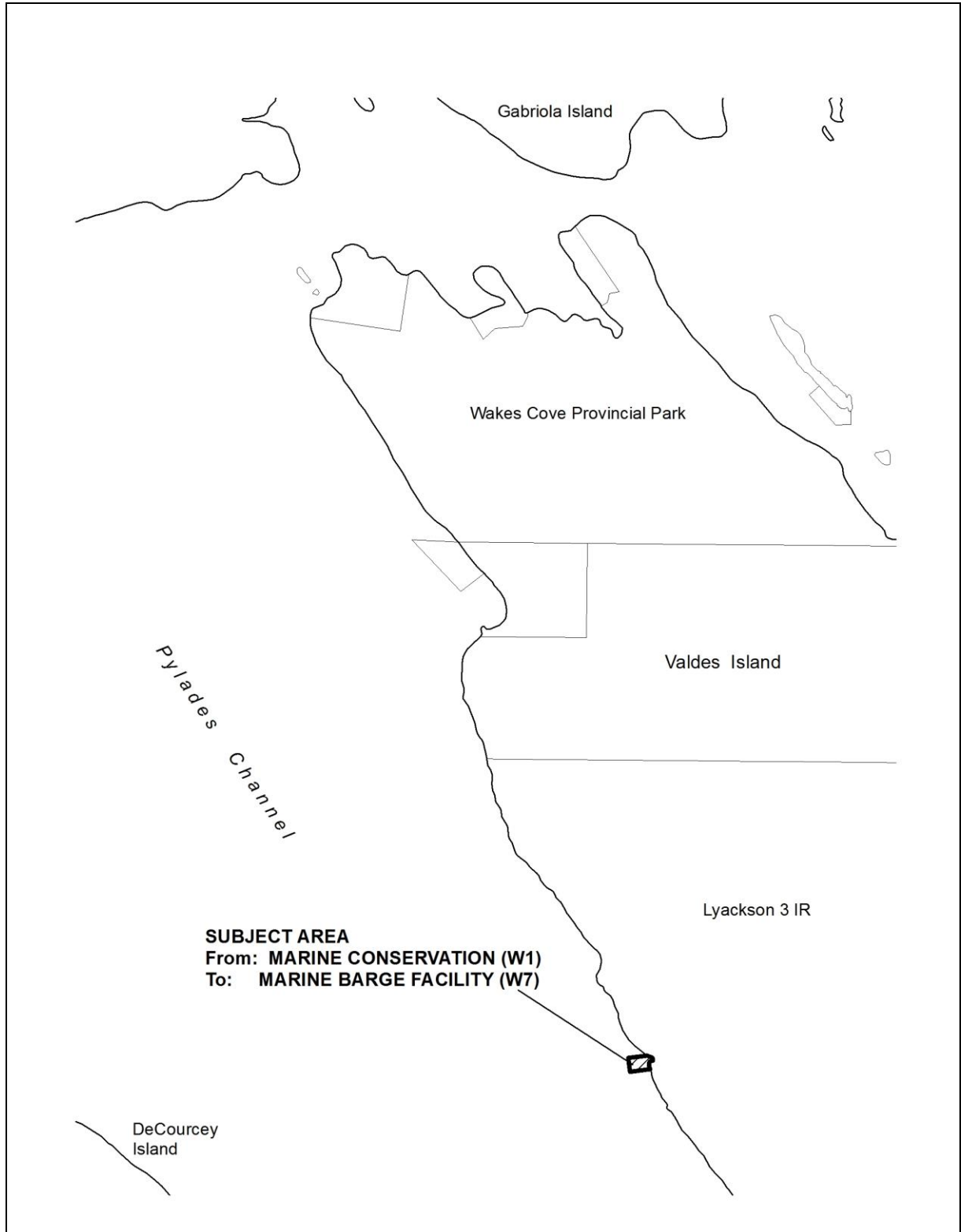
READ A FIRST TIME THIS	29 TH	DAY OF	MARCH	, 2016
READ A SECOND TIME THIS	_____	DAY OF	_____	, 20____
PUBLIC HEARING HELD THIS	_____	DAY OF	_____	, 20____
READ A THIRD TIME THIS	_____	DAY OF	_____	, 20____
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____	DAY OF	_____	, 20____
ADOPTED THIS	_____	DAY OF	_____	, 20____

Chair

Secretary

**THETIS ISLAND LOCAL TRUST COMMITTEE
BYLAW NO.98**

Plan No. 1



Islands Trust
 LTC EXP SUMMARY REPORT F2017
 Invoices posted to Month ending September 2016

670 Thetis	Invoices posted to Month ending September 2016	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-670	LTC "Trustee Expenses"	750.00	0.00	750.00
LTC Local				
65200-670	LTC - Local Exp - LTC Meeting Expenses	1,000.00	931.46	68.54
65210-670	LTC - Local Exp - APC Meeting Expenses	500.00	0.00	500.00
65220-670	LTC - Local Exp - Communications	1,000.00	0.00	1,000.00
65230-670	LTC - Local Exp - Special Projects	500.00	0.00	500.00
TOTAL LTC Local Expense		<u>3,000.00</u>	<u>931.46</u>	<u>2,068.54</u>
Projects				
73001-670-3008	Thetis RAR	1,500.00	0.00	1,500.00
73001-670-4072	Thetis First Nations Relations	3,000.00	0.00	3,000.00
TOTAL Project Expenses		<u>4,500.00</u>	<u>0.00</u>	<u>4,500.00</u>

Islands Trust
 LTC EXP SUMMARY REPORT F2017
 Invoices posted to Month ending October 2016

670 Thetis	Invoices posted to Month ending October 2016	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-670	LTC "Trustee Expenses"	750.00	0.00	750.00
LTC Local				
65200-670	LTC - Local Exp - LTC Meeting Expenses	1,000.00	1,085.81	-85.81
65210-670	LTC - Local Exp - APC Meeting Expenses	500.00	0.00	500.00
65220-670	LTC - Local Exp - Communications	1,000.00	0.00	1,000.00
65230-670	LTC - Local Exp - Special Projects	500.00	0.00	500.00
TOTAL LTC Local Expense		<u>3,000.00</u>	<u>1,085.81</u>	<u>1,914.19</u>
Projects				
73001-670-3008	Thetis RAR	1,500.00	0.00	1,500.00
73001-670-4072	Thetis First Nations Relations	3,000.00	0.00	3,000.00
TOTAL Project Expenses		<u>4,500.00</u>	<u>0.00</u>	<u>4,500.00</u>